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August 28, 2008

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VIA HAND DELIVERY

Jeff S. Jordan, Esquire
Supervisory Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6039
Mario Diaz-Balart for Congress

Dear Mr. Jordan:

Please find attached the response of our client, Mario Diaz-Balart for Congress, to the notification by the Federal Election Commission of a Complaint filed against it in the above referenced matter.

Please do not hesitate to contact us with any questions.

Respectfully submitted,

William J. McGinley

William J. McGinley

Attachment

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BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

Mario Diaz-Balart for Congress
And Jose Riesco, as Treasurer

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MUR 6039

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**RESPONSE OF MARIO DIAZ-BALART FOR CONGRESS
AND JOSE RIESCO, AS TREASURER, TO THE COMPLAINT FILED
BY THE MIAMI-DADE DEMOCRATIC PARTY**

I. INTRODUCTION.

This responds to the Complaint filed by the Miami-Dade Democratic Party ("MDDP") against our clients, Mario Diaz-Balart for Congress ("Committee") and Jose A. Riesco, as Treasurer, in the above-referenced matter. As explained below, the event in question was a low dollar, grassroots event that generated minimal expenses for the individuals hosting the event in their residence, and a small amount of receipts for the Committee. In short, this event was the type of grassroots event that the Federal Election Commission ("Commission") should permit, not chill through an enforcement action. Given the MDDP's fundamental misunderstanding regarding the nature of the event, we respectfully urge the Commission to dismiss this matter, close the file, and take no further action.

II. FACTUAL AND LEGAL ANALYSIS.

The Commission regulations contemplate that when more than one political committee engage in joint fundraising activities, the committees are permitted to sign a joint fundraising agreement, appoint a representative, and follow the other requirements set forth in 11 CFR § 102.17. See 48 Fed. Reg. 26298 ("Subsection (a)(1)(i) states the general permission allowing political committees to engage in joint fundraising with other political committees . . ."). Primary among the issues covered by section 102.17 are the procedures for committees to

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advance funds to cover fundraising costs and the allocation of gross proceeds to cover fundraising expenses. See *id.* §§ 102.17(c)(3) & (7). In short, the joint fundraising regulations apply to the situation where more than one political committee engages in joint fundraising activities and each committee is required to advance funds to cover the costs or the costs must be covered by gross proceeds generated by the activity. These procedures ensure that one committee does not receive an excess benefit from another committee that pays more than its allocable share of the expenses.

The joint fundraising regulation, however, does not apply to the event at issue in this matter. Commission regulations specifically exempt from the definition of contribution and expenditure the payment by an individual for invitations, food and beverages provided in his or her residential premises for candidate-related activity. 11 CFR §§ 100.77 & 100.137. An individual may spend up to \$1,000 per election per candidate on such expenses without them constituting a contribution or expenditure under Commission regulations. Upon information and belief, the facts in this matter fall within this exemption.

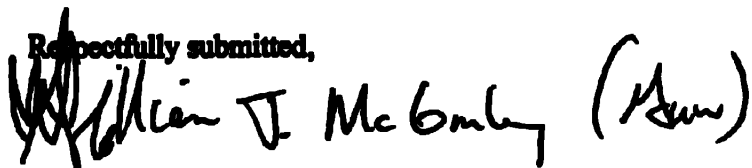
- The Committees did not allocate proceeds.
- Event host Armando Bucelo, Jr. paid expenses related to the event, which was held in his private residence, with his own personal funds.
- The minimal costs to Mr. Bucelo for the event (three to four deli trays, soda, and red and white wine) did not exceed \$1,000 and were thus well within the exemption to the definition of contribution described in 11 C.F.R. § 100.77.
- There may be an inconsequential expense for a photographer who was present at the event. The Committee anticipates that this expense will not exceed \$200 to \$300 for all photographic services in connection with the event.
- Individuals attending the event wrote checks directly to each of the campaigns listed on the invitation.
- The event raised approximately four to six thousand dollars for each candidate in small contributions of approximately \$50-\$200 per person.
- The entire event was planned and executed by Mr. Bucelo and his wife.

Accordingly, the fundraising event hosted by Mr. Bucelo and his wife falls within the volunteer exemption for campaign-related activity on his residential premises.

Moreover, the cost and scope of this event do not even begin to approach the circumstances detailed in MUR 5780. In MUR 5780, the event benefiting the campaign and the state party raised over one million dollars. See MUR 5780 Factual and Legal Analysis at 3-4. The campaign and state party coordinated disbursements for the event and may have coordinated how the contributions raised in connection with the event would be allocated between the two committees.¹ Accordingly, none of the concerns addressed in the joint fundraising regulations or at issue in MUR 5780 are present in this matter.

For the reasons stated above, the Office of the General Counsel must recommend and the Commission must find no reason to believe, dismiss the matter, and close the file.

Respectfully submitted,



William J. McGinley
Katie Biber-Chen

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August 28, 2008

¹ The Committee's disclaimer does appear on the email invitation. However, the invitation was never printed or mailed, such that no costs were engendered in its electronic distribution.